

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

KIMBERLY F. PETRE,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

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Case No. 2:10CV00079 RWS(LMB)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant's final decision denying plaintiff's application for Disability Insurance Benefits under Title II of the Social Security Act and Supplemental Security Income under Title XVI of the Act. This cause was referred to the undersigned United States Magistrate Judge for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). Currently pending is Plaintiff's Motion for Leave to Voluntarily Dismiss Complaint without Prejudice. (Document Number 15).

In her motion, plaintiff states that thorough review of the record has resulted in a determination by plaintiff's counsel and plaintiff that it would not be in plaintiff's best interest to pursue her claim. Plaintiff indicates that she has re-filed for Social Security benefits and has been approved on a subsequent application. Plaintiff requests that the court grant her leave to voluntarily dismiss her Complaint without prejudice. Plaintiff has attached as an exhibit a statement signed by plaintiff indicating that she no longer requires the service of counsel in regard

to her Social Security disability claim. See Pl's Ex. A.

The undersigned believes that it is appropriate to dismiss plaintiff's Complaint without prejudice.

Accordingly,

IT IS HEREBY RECOMMENDED that Plaintiff's Motion for Leave to Voluntarily Dismiss Complaint without Prejudice (Doc. No. 15) be **granted**.

The parties are advised that they have fourteen (14) days to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained, and failure to file timely objections may result in a waiver of the right to appeal questions of fact.

Dated this 23rd day of March, 2011.

A handwritten signature in cursive script, reading "Lewis M. Blanton", written in black ink.

LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE